

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

EMPLOYEE PAINTERS' TRUST	)	CASE NO. C07-0048-JPD
HEALTH & WELFARE PLAN,	)	
INTERNATIONAL UNION OF PAINTERS	)	
& ALLIED TRADES PENSION FUND,	)	
	)	ORDER GRANTING PLAINTIFFS'
Plaintiffs,	)	MOTION FOR SUMMARY
	)	JUDGMENT
v.	)	
	)	
RICHARD KREIS and "JANE DOE"	)	
KREIS, husband and wife and the marital	)	
community comprised thereof, D/B/A RED	)	
EARTH CONSTRUCTION,	)	
	)	
Defendants.	)	

The Plaintiffs, Employee Painters' Trust Health & Welfare Plan and International Union of Painters & Allied Trades Pension Fund ("Trust Fund") have filed this suit against Richard Kreis and "Jane Doe" Kreis, d/b/a Red Earth Construction (the "Employer"), seeking recovery of funds that the Trust Fund alleges should have been paid for the benefit of certain employees of the Employer. This Court has jurisdiction pursuant to § 301 of the Labor-Management Relations Act, 29 U.S.C. § 185(a), and §§ 502(a)(3) and 502(e)(2) of the Employee Retirement Income Security Act of 1974, 29 U.S.C. §§ 1132(a)(3) and 1132(e)(2). The parties have consented to the undersigned Magistrate Judge hearing this case, pursuant to

28 U.S.C. § 636(c). Dkt. No. 8.

The plaintiffs' motion for summary judgment (Dkt. No. 11) is before the Court. The motion seeks recovery of contributions for work by employees covered by the Trust Fund performed during the period January 2001 through December 2004, in the amount of \$55,648.46, liquidated damages in the amount of \$8,248.54, interest on both in the amount of \$13,911.71, and an audit fee of \$3,251.57. The plaintiffs also seek costs incurred in this action of \$433.01 and attorneys' fees in the amount of \$2,303.78. Dkt. Nos. 11, 12.

A party against whom a properly supported motion summary judgment is sought may not rely on mere denials in an answer, but instead must come forward, affirmatively demonstrating that there are genuine issues of material fact that preclude the relief sought by the moving party. Fed. R. Civ. P. 56(e). *Celotex Corp. v. Cattrett*, 477 U.S. 317, 323 (1986). Pursuant to Local Rule 7(b)(2), the failure of a party to file papers in opposition to a motion may be considered by the Court to be an admission that the underlying motion has merit.

In this case, the plaintiffs' motion is supported by appropriate declarations indicating the basis for liability and damages. The defendants have not filed any opposition to the plaintiffs' motion. Accordingly, plaintiffs' motion for summary judgment (Dkt. No.11) is GRANTED. The Clerk of the Court is directed to enter judgment on behalf of the plaintiffs and against the defendants in the amount of \$81,060.28 together with attorneys' fees of \$2,303.78 and costs of \$433.01, for a total of \$83,797.07.

DATED this 8th day of November, 2007.

  
JAMES P. DONOHUE  
United States Magistrate Judge